## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI (Northern Division)

UNITED STATES OF AMERICA, )	
and the STATE OF MISSISSIPPI,	
Plaintiffs, )  v. )	Case No. 3:12-cv-790-HTW-LGI (Clean Water Act Case)
THE CITY OF JACKSON, MISSISSIPPI,	
Defendant. )	
UNITED STATES OF AMERICA, )	
Plaintiff,	
)	Case No. 3:22-cv-00686-HTW-LGI (Safe Drinking Water Act Case)
v. ) )	UNITED STATES' RESPONSE IN OPPOSITION TO THE ITPM'S MOTION TO SUPPLEMENT THE
THE CITY OF JACKSON, MISSISSIPPI, )	RECORD ON APPEAL
Defendant. )	(Clean Water Act Case and Safe Drinking Water Act Case)

Pursuant to S.D. Miss. Local Civil Rule 7 and Federal Rule of Appellate Procedure 10, Plaintiff the United States files this response in opposition to the ITPM's Motion to Supplement the Record on Appeal (ECF No. 142).

Under Federal Rule of Appellate Procedure 10(a), the record on appeal is made of: "(1) the original papers and exhibits filed in the district court; (2) the transcript of proceedings, if any; and (3) a certified copy of the docket entries prepared by the district clerk."

The ITPM now seeks to supplement the record on appeal with three documents that were never filed in district court: an email from the Mississippi Department of Human Services (MDHS) to the ITPM, the ITPM's 2024 financial management plan, and a letter from MDHS to the ITPM. Mot. at 2–3. None of these documents are part of the record on appeal under Federal Rule of Appellate Procedure 10(a). Thus, the documents were not "omitted from or misstated in the record by error or accident," and it is not appropriate to supplement the record with these documents under Federal Rule of Appellate Procedure 10(e)(2). *See Hall v. Hoke*, 471 F. App'x 269, 270 (5th Cir. 2012) (per curiam) ("[Appellant] may not supplement the record pursuant to Federal Rule of Appellate Procedure 10(e)(2) with evidence that was not presented to the district court.").

For the foregoing reason, the United States opposes the ITPM's motion.

Respectfully submitted,

TODD KIM

Assistant Attorney General Environment and Natural Resources Division U.S. Department of Justice

Dated: August 6, 2024

/s/ Angela Mo

ANGELA MO (CA Bar No. 262113)

KARL FINGERHOOD (PA Bar No. 63260)

Senior Counsel

**Environmental Enforcement Section** 

Environment and Natural Resources Division

U.S. Department of Justice

P.O. Box 7611

Washington, D.C. 20044-7611

Tel: (202) 514-7519

Fax: (202) 616-2427

Email: Karl.Fingerhood@usdoj.gov Angela.Mo@usdoj.gov

TODD GEE

United States Attorney for the

Southern District of Mississippi

ANGELA GIVENS WILLIAMS (MS Bar No. 102469) Chief, Civil Division MITZI DEASE PAIGE (MS Bar No. 6014) Assistant United States Attorney United States Attorney's Office 501 East Court Street, Suite 4.430 Jackson, Mississippi 39201 Tel: (601) 965-4480

Email: AWilliams4@usa.doj.gov mitzi.paige@usdoj.gov

Counsel for Plaintiff the United States of America